IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DATATERN, INC.,	)
	)
Plaintiff,	)
	)
v.	) Consolidated C. A. No. 11-cv-12220-RGS
	)
MICROSTRATEGY, INC. *et al.*,	)
	)
Defendants.	)
	)
	)
	)

DEFENDANT MICROSTRATEGY'S PRELIMINARY INVALIDITY CONTENTIONS

I.   INTRODUCTION

Pursuant to the Court's Orders dated March 21, 2012 (as amended by the Court's July 2, 2012 order granting in part Defendant's motion to compel), Defendant MicroStrategy Incorporated ("MicroStrategy") discloses the following Preliminary Invalidity Contentions for the asserted claims of U.S. Patent No. 6,101,502 (the "'502 patent).

MicroStrategy's invalidity contentions are preliminary and are based at least in part on DataTern, Inc.'s ("DataTern") infringement contentions and claim constructions implied therein. MicroStrategy understands from DataTern's infringement contentions that DataTern asserts the following claims: 1–5, 8, 10, 11, 12, 13, 14, 17, 19, 20, 21, 25, 26, 28, 29, 30, 31, 41 (the "Asserted Claims"). MicroStrategy does not agree with DataTern's infringement contentions (to the extent they can be understood) and many implied claim constructions represented by those contentions. MicroStrategy has not yet submitted proposed claim terms or constructions, and MicroStrategy's preliminary invalidity contentions are not, and should in no way be interpreted as, adoptions of any particular claim construction position. MicroStrategy reserves the right to—

and expects to—advocate claim constructions that are inconsistent with one or more of its

invalidity contentions.   Also, MicroStrategy provides these contentions without having the

benefit of (a) discovery regarding DataTern's claim construction positions, (b) full discovery into

the scope and extent of the prior art, (c) complete and adequate infringement contentions from

DataTern, (4) expert discovery, or (5) claim constructions ordered by the Court.

MicroStrategy expressly reserves the right to revise, amend, correct, supplement, modify,

or clarify these preliminary invalidity contentions (if necessary) after additional discovery and

investigation consistent with the rules and the parties' March 20, 2012 Joint Statement.

MicroStrategy further reserves the right to withdraw prior art from and/or add additional prior

art, and combinations thereof, to this disclosure in light of subsequent discovery, expert analysis,

deposition testimony, newly discovered prior art, the Court's claim construction ruling, any

supplemental or amended infringement contentions provided by DataTern, or as otherwise

appropriate.

Subject to the foregoing, MicroStrategy has provided charts (attached as Exhibit A[1]) of

prior art references that are relevant to the invalidity of the '502 patent.   MicroStrategy reserves

the right to amend or modify these charts as the case progresses, as permitted by the Court's

Scheduling Order and the Federal Rules of Civil Procedure.   For example, MicroStrategy may

pursue discovery and investigation into additional prior art references (e.g., not available to

MicroStrategy at the time of this filing) and may amend its contentions as that discovery is

developed.   MicroStrategy may also amend or supplement its contentions in light of any changes

in DataTern's infringement theory, including without limitation any supplemental infringement

contentions served by DataTern identifying MicroStrategy source code alleged to infringe.

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[1] Exhibit A consists of 50 subparts, numbered A-1-A-50.

MicroStrategy may also amend or supplement its contentions in light of any discovery served by DataTern that is responsive to these contentions.

II.   IDENTIFICATION OF PRIOR ART

Each of the Asserted Claims is anticipated and/or rendered obvious by the following prior art references, each charted in Exhibit A:

Reference	*Chart*
"Bridging the Gap between C++ and Relational Databases" by Uwe Hohenstein	EXHIBIT A-1
CA 2,147,421 to Pope	EXHIBIT A-2
MicroStrategy Decision Support Solutions 4 Platform (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-3
Persistent Java by Santos and Theroude	EXHIBIT A-4
U.S. Patent No. 5,850,544 to Parvathaneny	EXHIBIT A-5
U.S. Patent No. 6,047,284 to Owens	EXHIBIT A-6
U.S. Patent No. 5,937,402 to Pandit	EXHIBIT A-7
U.S. Patent No. 6,081,808 to Blackman	EXHIBIT A-8
U.S. Patent No. 6,226,637 and U.S. Patent No. 6,134,540 to Carey, et al.	EXHIBIT A-9
U.S. Patent Number 6,061,515 and U.S. Patent Number 5,627,979 to Chang, et al.	EXHIBIT A-10
U.S. Patent No. 6,061,689 and U.S. Patent No. 5,924,100 to Chang, et al.	EXHIBIT A-11
COMan – Coexistence of Object-Oriented and Relational Technology by Proll, et al.	EXHIBIT A-12
U.S. Patent No. 5,694,598 to Durand	EXHIBIT A-13
Modeling for the RDBMS Legacy by Frost	EXHIBIT A-14
Active Object-Relational Mediators, Thomas Kudras et al.	EXHIBIT A-15
U.S. Patent No. 5,504,885 to Alashqur	EXHIBIT A-16
U.S. Patent No. 6,374,252 to Althoff	EXHIBIT A-17
U.S. Patent No. 6,240,422 to Atkins	EXHIBIT A-18
U.S. Patent No. 5,897,634 to Attaluri	EXHIBIT A-19
Complex Objects for Relational Databases, Computer Aided Design, Vol. 22, No. 8 by Barsalou, Thierry, et al.,	EXHIBIT A-20
Object Wrapper: an Object-Oriented Interface for Relational Databases by Sonia Bergamaschi & Alessandra Garuti	EXHIBIT A-21
U.S. Patent No. 5,907,846 to Berner	EXHIBIT A-22
Converting OO Models into RDBMS Schema, Michael Blaha et al. by Blaha	EXHIBIT A-23
U.S. Patent No. 5,765,162 to Blackman	EXHIBIT A-24

High Performance OO Traversals in Monet by Boncz et al.	EXHIBIT A-25
U.S. Patent No. 5,696,961 to Briscoe	EXHIBIT A-26
U.S. Patent No. 5,555,403 to Cambot	EXHIBIT A-27
U.S. Patent No. 5,832,498 to Exterier	EXHIBIT A-28
ONTOS, INC., Schema Mapper User's Guide: ONTOS Object Integration Server for Relational Databases 1.0 (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-29
U.S. Patent No. 5,937,409 to Wetherbee	EXHIBIT A-30
U.S. Patent No. 6,076,090 to Burroughs	EXHIBIT A-31
U.S. Patent No. 5,878,411 to Burroughs	EXHIBIT A-32
U.S. Patent No. 5,956,725 to Burroughs	EXHIBIT A-33
U.S. Patent No. 5,694,597 and U.S. Patent No. 5,729,739 to Cantin,	EXHIBIT A-34
U.S. Patent No. 5,499,371 to Henninger	EXHIBIT A-35
Integrating Object-Oriented Applications and Middleware with Relational Databases by Manola	EXHIBIT A-36
Persistence Software: Bridging Object-Oriented Programming and Relational Databases, Keller, Jensen & Agarwal and Persistence User Manual, Persistence Software, Inc., Version 1.2 (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-37
U.S. Patent No. 6,085,198 to Skinner	EXHIBIT A-38
U.S. Patent No. 5,893,108 to Srinivasan	EXHIBIT A-39
Subtleware for C++/SQL, Documentation Set (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-40
Object-Oriented Query Language Access to Relational Databases: A Semantic Framework for Query Translation by Urban and Abdellatif	EXHIBIT A-41
VisualWorks User's Guide (1995) VisualWorks' Database Tools Tutorial and Cookbook (1994) (printed publications and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-42
InfoBase User's Manual, ParcPlace Systems, Inc. (1989) and InfoBase for Smalltak-80 Release 1.0 External Reference Specification, Steiger et al. (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	EXHIBIT A-43
U.S. Patent No. 5,717,924 to Kawai	EXHIBIT A-44
Object-Oriented Querying of Existing Relational Databases, by Daniel A. Keim, Hans-Peter Kriegel and Andreas Miethsam	EXHIBIT A-45
U.S. Patent No. 5,734,887 to Kingberg	EXHIBIT A-46
U.S. Patent No. 5,809,505 to Lo	EXHIBIT A-47
U.S. Patent No. 5,857,197 to Mullins	EXHIBIT A-48
Enterprise Object Framework Developer's Guide: NeXTStep Developer's Library, Release 3, NeXT Computer, Inc. (1994); Enterprise Object Framework Developer's Guide: OpenStep Developer	EXHIBIT A-49

Library, NeXT Computer, Inc. (1996); U.S. Patent No. 5,873,093; U.S. Patent No. 6,122,641; U.S. Patent No. 6,223,227; U.S. Patent No. 6,466,992; U.S. Patent No. 6,952,706; U.S. Patent No. 6,704,744; U.S. Patent No. 7,127,474; "Enterprise Objects Framework: A Second Generation Object-Relational Enabler" by Kleissner, Charly (a printed publication and, separately, a system that was sold, offered for sale, and in public use prior to the priority date of the '502 patent)	
U.S. Patent No. 6,385,618 to Ng	EXHIBIT A-50

Further, the following additional references are also relevant to the issue of validity. MicroStrategy may rely on these references to demonstrate invalidity, including without limitation to show the scope and content of the prior art, the knowledge of a person of ordinary skill in the art at the time of the alleged invention, the level of skill of a person of ordinary skill in the art, or to show the presence of particular claim limitations in the prior art.

Additional Patents:

PATENT NO.	COUNTRY OF ORIGIN	DATE OF ISSUE	AUTHOR
5,291,583	United States	3/1/1994	Bapat '853
5,297,279	United States	3/22/1994	Bannon '279
5,315,709	United States	5/24/1994	Alston, Jr. '709
5,481,703	United States	1/2/1996	Kato '703
5,550,971	United States	8/27/1996	Brunner '971
5,615,362	United States	3/25/1997	Jensen '362
5,659,723	United States	8/19/1997	Dimitrios '723
5,701,453	United States	12/23/1997	Maloney '453
5,706,506	United States	1/6/1998	Jensen '506
5,737,597	United States	5/9/2000	Blackman '597
5,737,736	United States	4/7/1998	Chang '736
5,752,027	United States	5/12/1998	Familiar '027
5,758,351	United States	5/26/1998	Gibson '351
5,761,493	United States	1/2/1998	Blakeley '493
5,765,159	United States	6/9/1998	Srinivasan '159
5,774,692	United States	6/30/1998	Boyer '692
5,778,375	United States	7/7/1998	Hecht '375
5,781,907	United States	7/14/1998	Blackman '907
5,787,412	United States	7/28/1998	Bosch '412

5,794,248	United States	8/11/1998	Blackman '248
5,797,137	United States	8/18/1998	Golshani '137
5,799,309	United States	8/25/1998	Srinivasan '309
5,809,296	United States	9/15/1998	Yong '296
5,809,506	United States	9/15/1998	Copeland '506
5,809,509	United States	9/15/1998	Blackman '509
5,812,996	United States	9/22/1998	Rubin '996
5,826,077	United States	10/20/1998	Blakeley '077
5,875,333	United States	2/23/1999	Fish '333
6,018,627	United States	1/25/2000	Iyengar '627
6,038,566	United States	3/14/2000	Tsai '566
6,044,205	United States	3/28/2000	Reed '205
6,047,257	United States	4/4/2000	Owens '257
6,108,664	United States	8/22/2000	Nori '664
6,247,008	United States	6/12/2001	Cambot '008
6,457,017	United States	9/24/2002	Watkins '017
6,529,915	United States	3/4/2003	Owens '915
7,089,262	United States	8/8/2006	Owens '262

Additional Non-Patent Publications:

TITLE	AUTHOR	PUBLISHER	DATE OF PUB.
Advances in databases: 14th British National Conference on Databases Edinburgh, Scotland, United Kingdom		Springer-Verlag Berlin, Heidelberg	July 3-5, 1996
ONTOS Object Integration Server			
Proceedings on Very Large Databases		IEEE	1977
OQL: A Query Language for Manipulating Object-Oriented Databases	Alashqur, A.M., Su, S.Y.W. Lam, H.	Electrical Engineering Dept. University of Florida	1989
Persistent Object Systems	Atkinson, M., Maier, D., Benzaken, V.	Springer/British Computer Society	Jun. 1995

An Object-Based Interface to a Relational Database System	Barsalou, T.	Medical Computer Science Stanford University	1987
Updating Relational Databases Through Object Based Views	Barsalou, T.	ACM	1991
Knowledge-Directed Mediation Between Application Objects and Base Data, Data and Knowledge Base Integration:	Barsalou, T., Wiederhold, G.	Proceedings of the Working Conference on Data and Knowledge Base Integration	October 11-24, 1992
Relational Updates Through View Objects	Barsalou, T., Keller, A., Wiederhold, G.	Stanford University	
Persistent Storage for a Workflow Tool Implemental in Smalltalk	Beck, B., Hartley, S.	OOPSLA/ACM	1994
Relational Database Design Using an Object-Oriented Methodology	Blaha, M.		1988
Practical application of object-oriented techniques to relational databases	Burleson, Donald	Wiley	1994
The Gemstone Object Database Management System	Butterworth, P., Otis, A., Stein, J.	ACM	Oct. 1991
The Object Oriented Design and Implementation of a Rational Database Management System	Campbell, J., Joseph, J.	JOOP	1995
Semantic Enrichment of Database Schemas: An Object-Oriented Approach	Castellanos, Malii		Apr. 1991

Object data management : object-oriented and extended relational database systems	Cattell, Roderic	Addison-Wesley Pub. Co.	1994
Using the new DB2 : IBM's object-relational database system	Chamberlin, Donald Dean	Morgan Kaufmann Publishers	1996
Component Corner: OPENjdbc:Pure CORBA JDBC Data Access	Cottman, Brian	Object Magazine	June 1997
Integrating Object and Relational Technologies	Danforth, Scott	IEEE Computer Society Press	Sept. 1992
Schema Versioning for Multitemporal Relational Databases	De Castro, C. Grandi, F. Scalas		May 13, 1997
Using an Object-Oriented Approach to the Development of a Relational Database Application System			1995
Study and Development of the Embedded SQL Interface of the Relational Database and High Level Language	Fang, Min.	Xidian University, China	Dec. 1996
An Object-Oriented Design for the Visualization of Multi-Variable Data Objects	Favre, J., Hahn, J.	IEEE	1994

"IRIS: An Object-Oriented Database Management System," ACM Transactions on Office Information Systems, Vol. 5, No. 1	Fishman, D.H., et al.,		Jan. 1987
Producing Relational Database Schemata from an Object-Oriented Design		IEEE	1994
Managing Complex Objects in an Extensible Relational DBMS	Gardarin, Georges et al.	Proceedings of the Fifteenth International Conference on Very Large Data Bases	Aug. 22, 1989
Entity-relationship Database Support for Real-Time Adaptation	Gopinath, P. Ramnath, R. Schwan, K.	PARBASE-90 International Conference	Mar. 1990
TopLink Bridges Two Worlds	Grehan, R.	BYTE	May 1998
T2C - A Shuttle Class Generator	Gunther Schadow	Gunther Schadow	1995
An Object-Oriented Access Layer to a Relational Database	Hahn, W. Wittkowski, A.	Informatik Spektrum	June 1995
An Object-Oriented Access Layer to a Relational Database	Hahn, W.		Jun. 1995
Interfacing to Legacy and Object-Oriented Environments	Healton, B.	IEEE Computer Society Washington, DC	Aug. 1998
Method and Apparatus for Generational of Code for Mapping Relational Data to Objects, Appendix 1 - Source Code	Henninger, D., Jensen, R., Keene, C.		

Method and Apparatus for Generational of Code for Mapping Relational Data to Objects, Appendix 2 - Source Code	Henninger, D., Jensen, R., Keene, C.		
IEEE Software	IEEE Computer Society		1984
Very Large Data Bases : proceedings at the	International Conference on Very Large Data Bases	New York, N.Y.	1995
Object-Oriented Applications Using Relational Databases	International Technical Support Organization		1994
An Object-Oriented Database System Jasmine: Implementation, Application, and Extension	Ishikawa, H. et al.	IEEE	Apr. 1996
Java Blend / Pocket	Java Blend/Pocket		1996
Function Materialization in Object Based: Design, Realization, and Evaluation	Kemper, A. Kilger, C. Moerkotte, G.		1994
Modern database systems : the object model, interoperability, and beyond	Kim, W.	ACM Press	1995
Object-Oriented Database Systems: Promise, Reality, and Future	Kim, W.	UniSQL, Inc.	1993
A Model of Queries for Object-Oriented Databases	Kim, Won		1989

The Object Model, Interoperability, and Beyond	Kim, Won	ACM	
Multiple View Support within the ANSI/SPARC Framework	Klug, A. Tsichritizis, D.	IEEE	1977
A C++ Template-Based Application Architecture	Kontogiorgos, T., Kim, M.	SIGS Reference Library	Feb. 1995
1991 Symposium on Applied Computing, Kansas City, Missouri	Kumar et. al.	IEEE Computer Society Press	Aug. 3-5, 1991
Database directions : from relational to distributed, multimedia, and object-oriented database systems	Larson, James	Prentice Hall PTR	1995
ORACLE reporting : queries with SQL objects	Lewis, Gary	Komenda Pub. Co	1995
Multiresolution Object-of-Interest Detection for Images with Low Depth of Field	Li, J., Wang, J., Gray, R., Wiederhold, G.	Stanford University	
Objects and SQL: Accessing Relational Databases	Loomis, M.		1991
Extending the Relational Algebra to Capture Complex Objects	Mitschang, B.		1989
On Mapping ER and Relational Models into OO Schemas	Narasimhan, B.	Springer	1994
Design and Implementation of a Gateway for Object Oriented Interface on Relational Database	Park, Sang-Won		Aug. 1997

Providing Object-Oriented Access to Existing Relational Databases	Ramanathan et. al.	Mississippi State University	May 1997
Development of an OO Infrastructure for Mainframe Database Applications	Rothering, D.	OOPSLA/ACM	1994
Design and Implementation of a Gateway for Object-Oriented Interface on Relational Database	Sang-Won, P., Hyoung-Joo, K.	Korea Inf. Sci. Soc.	Aug. 1997
Object Oriented Approach to MLS Database Application Design	Sell, P.		
Readings in Database Systems, Second Edition	Stonebraker, M.	Morgan Kaufmann	1994
The HORA: An Integration of Object-Oriented and Relational Technology	Sutherland, Jeff	ACM	Mar. 1993
The TOPLink Family of Products	TOPLink	The Object People	1997
VortexPerl	Trifox, Inc.		June 1997
The ANSI/X3/Spark DBMS Framework Report of the Study Group on Database Management Systems	Tsichritzis, D., Klug, A.	Pergamon Press	1978
Upgrading relational databases with objects	Vermeulen, Robert	SIGS Books	1996
Views, Objects, and Databases	Wiederhold, G.	IEEE	1986
Managing Objects in a Relational Framework	Wiederhold, G.	Stanford University	1989

Middlewares from JOOP: The Journal of Object-Oriented Programming	Won	JOOP	Feb. 1998
A Framework for Schema Updates in an Object-Oriented Database System	Zicari, R.	IEEE	1991
Transformation of Relational Schemas to Object Oriented Schemas	Meng	State University of New York at Binghamton	Dec. 31, 1995

III.   ANTICIPATION AND OBVIOUSNESS

As explained above, MicroStrategy's preliminary invalidity contentions are based at least

in part on MicroStrategy's present understanding of DataTern's infringement theories and,

alternatively, on MicroStrategy's interpretations of the Asserted Claims as reflected by the

claims themselves as read by a person of ordinary skill in the art having read the patent and

prosecution history.

The references charted in Exhibit A each anticipate one or more asserted claims from the

'502 patent, as demonstrated in the attached charts. To the extent it is determined that any

reference charted in Exhibit A does not anticipate a particular asserted claim, each reference in

Exhibit A in combination with (1) any other reference charted in Exhibit A, (2) references set

forth in Exhibit B[2], and/or (3) the knowledge of a person or ordinary skill in the art at the time of

invention, renders obvious each asserted claim.

The motivation to modify or combine these references may be found in the knowledge of

one of ordinary skill in the art, the nature of the problem to be solved, and/or in the prior art

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[2]   Exhibit B sets forth exemplary references which may be used in combination with other references included in Exhibit A to the extent it is argued that any reference charted in Exhibit A does not disclose a particular limitaiton.

references themselves. For instance, one of ordinary skill in the art would have been motivated to combine the references set forth in Exhibit A with other references included in Exhibit A or with the exemplary combinations set forth in Exhibit B as such references pertain generally to a method or system for easing the integration of and communication between an application and a relational database. Thus, a person of ordinary skill in the art would have been motivated to combine these references in order to take advantage of particular features not shared by all references, as all are directed to solving a similar problem.

IV.   INVALIDITY UNDER 35 U.S.C. § 112

A.   Lack of Written Description/Enablement (35 U.S.C. § 112 ¶ 1)

All of the Asserted Claims are invalid under 35 U.S.C. § 112 ¶ 1. "The written description requirement requires the inventor to disclose the claimed invention so as to 'allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed.'" *Billups-Rothenberg, Inc. v. ARUP Labs., Inc.*, 642 F.3d 1031, 1036 (Fed. Cir. 2011) (quoting *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc)). The specification of the '502 patent does not support the claims in a manner that demonstrates possession of the invention on the date the application was filed with the Patent and Trademark Office (the "PTO"). Further, §112 ¶ 1 contains a second, separate requirement that the claim "enable[] one of skill in the art to make and use the claimed invention." *Ariad Pharms*., 598 F.3d at 1351. The specification of the '502 patent fails to satisfy this requirement as well.

Claims 1 and 10 (and claims depending thereon) are invalid for failure to meet the written description requirement and/or enablement requirements of 35 U.S.C. § 112 ¶ 1. For example, the specification fails to sufficiently support the limitations of claims 1 and 10 requiring "[generating]/[generates] a map." And these limitations are not enabled by the specification in a

manner that would permit a person of ordinary skill in the art to make or use the alleged invention. Namely, although the specification describes particular mapping concepts which could be considered when determining how a map is ultimately generated, the specification is silent with regard to the actual generation of the map (the "mapping model binary file") and instead merely states "[a] mapping model binary file is generated in parallel with each DLL containing the mapping information associated with the DLL." ('502 patent at 5:67-6:2).

Also, the specification fails to sufficiently support the limitations of claims 1 and 10 requiring "[employing]/[employs said] map to create at least one interface object." Likewise, these limitations are not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. Specifically, the specification contains no disclosure of how the claimed map is used to create an interface object. Without such a disclosure (1) it is not clear that the inventor was in possession of the invention at the time of filing, and (2) the specification would not enable a person of ordinary skill in the art to make/use the alleged invention.

Further, the specification fails to sufficiently support the limitations of claims 1 and 10 requiring "a runtime engine that invokes said at least one interface object." And these limitations are not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. Specifically, the specification contains no description of how a runtime engine "invokes" an interface object, or how this would be implemented in practice.

The specification also fails to sufficiently support the claim 1 limitation requiring "a runtime engine that invokes said at least one interface object with the object oriented application," to the extent this limitation is definite enough for MicroStrategy to understand what

the limitation requires. And this limitation is not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. The specification never discloses a runtime engine that invokes an interface object "with the object oriented application." Thus it is unclear that the inventor invented this concept and a person of ordinary skill could not make or use the alleged invention in this manner based on the specification's limited disclosure.

Claim 19, and claims depending thereon, are invalid for failure to meet the written description requirement and/or enablement requirements of 35 U.S.C. § 112 ¶ 1. The patent specification fails to sufficiently support the claim 19 limitation requiring "reading the map with the runtime engine." And this limitation is not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. The specification never discloses the manner in which a runtime engine would read information from the map. Thus it is unclear that the inventor invented this concept and a person of ordinary skill could not make or use the alleged invention in this manner based on the specification's limited disclosure. When patentee added this claim during reexamination, the only support from the specification patentee alleged to support this newly added claim was from column 1, lines 64-66. The designated portion of the specification does not provide adequate support for this limitation.

Claims 21 and 30 are invalid for failure to meet the written description requirement and/or enablement requirements of 35 U.S.C. § 112 ¶ 1. The patent specification fails to sufficiently support the claim limitations requiring "abstract[ing] relational database access functionality from the object oriented software application." And this limitation is not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. The specification never discloses the manner in which database access

is abstracted from the user's application. Thus it is unclear that the inventor invented this concept and a person of ordinary skill could not make or use the alleged invention in this manner based on the specification's limited disclosure. When patentee added this claim during reexamination, the only support from the specification patentee alleged to support this newly added claim was from column 6, lines 20-21. The designated portion of the specification does not provide adequate support for this limitation.

Claim 41 is invalid for failure to meet the written description requirement and/or enablement requirements of 35 U.S.C. § 112 ¶ 1. The patent specification fails to sufficiently support the claim limitations requiring "creating schema in the database." And this limitation is not enabled by the specification in a manner that would permit a person of ordinary skill in the art to make or use the alleged invention. The specification never discloses how the alleged invention would create schema in the database. Thus it is unclear that the inventor invented this concept and a person of ordinary skill could not make or use the alleged invention in this manner based on the specification's limited disclosure. When patentee added this claim during reexamination, the only support from the specification patentee alleged to support this newly added claim was from column 1, lines 53-62. The designated portion of the specification does not provide adequate support for this limitation.

B.   Indefiniteness (35 U.S.C. § 112 ¶ 2)

A claim is indefinite, and thus invalid under 35 U.S.C. § 112 ¶ 2 when "a person of ordinary skill in the art cannot translate the definition into meaningfully precise claim scope." *Honeywell Intern., Inc. v. U.S.*, 609 F.3d 1292, 1301-1 (Fed. Cir. 2010). Meaning, the claim is not drafted in a way as to give the public notice of the metes and bounds of the alleged invention.

Claim 1 is invalid as the limitation requiring "a runtime engine that invokes said at least one interface object <u>with the object oriented application</u>," in insolubly ambiguous and thus fails the definiteness requirement of section 112. A person of ordinary skill in the art having read the specification could not readily determine the scope of claim 1 (and claims dependent thereon) based on this insolubly ambiguous limitation.

Further, claims 25 and 26 are invalid as the limitation requiring "detecting a need," is insolubly ambiguous and thus fails the definiteness requirement of section 112. A person of ordinary skill in the art having read the specification could not readily determine the scope of claims 25 and 26 based on this ambiguous limitation.

V.   INVALIDITY UNDER 35 U.S.C. § 101

MicroStrategy submitted a motion for judgment on the pleadings alleging that the claims of the '502 patent are invalid for failure to comply with 35 U.S.C. § 101. The Court recently denied this motion without prejudice as the Court stated "it is prudent to follow the Federal Circuit's advice and construe the claims first." July 31, 2012 Electronic Order. MicroStrategy incorporates by reference herein the arguments set forth in MicroStrategy's motion. MicroStrategy reserves the right to further argue that the patent is invalid for failure to satisfy section 101 after the Court has construed the claims.

Dated: August 10, 2012

By: */s/ Benjamin K. Thompson*
Gregory A. Madera (BBO #313020)
madera@fr.com
Thomas A. Brown (BBO #657715)
tbrown@fr.com
Maureen Brenner (BBO # 679573)
mbrenner@fr.com
Fish & Richardson, P.C.
One Marina Park Drive
Boston, MA 02110-1878
617-542-5070
617-542-8906 (fax)

Benjamin K. Thompson
(admitted *pro hac vice*)
bthompson@fr.com
Fish & Richardson, P.C.
1180 Peachtree St. NE
Atlanta, GA 30318
404-724-2844

Attorneys for Defendant
MICROSTRATEGY INCORPORATED.

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on this 10th day of August, 2012.

/s/ Benjamin K. Thompson